

FILE COPY

State of Wisconsin
Before the Dentistry Examining Board

In the Matter of the Disciplinary Proceedings Against

Clemens K. Stoeckl, Jr., DDS
Respondent.

Case No. LS 9709121 DEN

Final Decision and Order

The parties to this proceeding for purposes of s. 227.53, Stats., are:

Clemens K. Stoeckl, Jr., DDS
8634 W. Brown Deer Road
Milwaukee WI 53224

Dentistry Examining Board
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

The parties having agreed to the attached stipulation, the Dentistry Examining Board makes the following:

FINDINGS OF FACT

1. Clemens K. Stoeckl, Jr., DDS, was born on February 4, 1948, and is licensed to practice dentistry in the state of Wisconsin pursuant to license number 1195, granted on May 24, 1973. Dr. Stoeckl practices in Milwaukee, Wisconsin.
2. Beginning in February 1988, Dr. Stoeckl began orthodontic evaluation and treatment of a patient, a 28 year old woman, who sought orthodontic treatment for gaps between her upper front teeth.
3. During his preliminary examinations, Dr. Stoeckl observed periodontal disease at the location of the desired orthodontic treatment, and noted that the periodontal disease had progressed to loss of bone supporting the teeth which Dr. Stoeckl proposed to move with orthodontic treatment.

4. Dr. Stoeckl did not attempt any periodontal treatment of the patient before placing orthodontic appliances.

5. Dr. Stoeckl did not consult with the patient's previous dentist about the periodontal disease at any time during his treatment of the patient.

6. Dr. Stoeckl did not provide any periodontal treatment for the patient during the course of the orthodontic treatment, except for infrequent routine oral hygiene prophylaxis and the provision of stannous fluoride mouthwash which Dr. Stoeckl contends would kill periodontal bacteria. Dr. Stoeckl asserts that the orthodontic treatment he was providing was also intended to mitigate the periodontal disease.

7. Stannous fluoride has no significant anti-bacterial properties.

8. Dr. Stoeckl did not determine whether the patient was receiving periodontal care from any other dentist while she was his patient.

9. Dr. Stoeckl's orthodontic analysis of the patient did not accurately describe the patient's existing dentition or occlusion, and incorrectly diagnosed an anterior tongue thrust coexisting with a deep overbite.

10. Dr. Stoeckl's records do not include a cephalometric radiograph of the adult patient, nor any record of the measurements from a cephalometric radiograph, nor any record of the first nineteen months of the patient's orthodontic treatment. Dr. Stoeckl asserts that he suspects that portions of his records of this patient may have been stolen by an ex-employee.

11. Dr. Stoeckl's orthodontic treatment plan includes the possibility of headgear therapy for the fully grown adult patient.

12. Headgear therapy is inappropriate for orthodontic treatment after the patient is fully grown.

13. Dr. Stoeckl undertook orthodontic treatment on teeth which were seriously compromised by periodontal disease and bone loss without obtaining a periodontal consult.

14. Periodontally compromised teeth have a poor prognosis for successful orthodontic treatment.

15. There is no indication in Dr. Stoeckl's presently existing records that he informed the patient of the risks of orthodontic treatment on her existing teeth, or the poor prognosis for orthodontic treatment on seriously periodontally compromised teeth.

16. In November 1991, Dr. Stoeckl referred the patient to a periodontist. The periodontist diagnosed severe periodontitis in the patient's upper front teeth. Within months, the patient's upper front teeth were extracted.

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction in this matter pursuant to §447 07, Stats.
2. Dr. Stoeckl's orthodontic and periodontic treatment of this patient is practice which substantially departs from the standard of care ordinarily exercised by a dentist, and constitutes a violation of § DE 5.02(5), Wis. Admin. Code

ORDER

Now, therefore, it is ordered that the license previously issued to Clemens K. Stoeckl, Jr., DDS, is LIMITED, with the following conditions:

1. ORTHODONTICS Subject only to the following exception, Dr. Stoeckl shall not practice orthodontics of any description.

a. **EXCEPTION:** Dr. Stoeckl may complete orthodontic treatment of any patient on whom he had placed orthodontic bands or appliances on or before January 1, 1998. This exception is valid only until January 6, 1999, and only for the purpose of permitting Dr. Stoeckl to comply with the conditions for lifting the limitation on orthodontic practice, as set forth below. **This exception terminates on January 6, 1999.** If Dr. Stoeckl has not completed the program of orthodontic education described below by January 6, 1999, Dr. Stoeckl shall immediately transfer all of the orthodontic patients in his practice to other dentists, with all due care for the patients' welfare.

1. No later than July 15, 1998, Dr. Stoeckl shall submit a list of the names of each of his current orthodontic patients to the Department Monitor, P.O. Box 8935, Madison, Wisconsin, 53708-8935, and shall, for each patient, identify the date orthodontic bands were placed, and the date he expects orthodontic treatment to be complete.

b. Dr. Stoeckl may petition the Board to remove the limitation after Dr. Stoeckl complies with the following conditions:

1. Dr. Stoeckl shall obtain remedial education in orthodontics sufficient to satisfy the Board that Dr. Stoeckl possesses a sound grasp of the theory of orthodontic treatment and the ability to apply the theory to individual cases. Dr. Stoeckl shall demonstrate competence in selecting orthodontic cases within the capabilities of a general dentist, orthodontic diagnosis, orthodontic treatment planning, record keeping, execution of orthodontic treatment, principles of delegation of orthodontic treatment, and evaluation and treatment of complications in orthodontics. Dr. Stoeckl shall design a program of remediation education to achieve the goal described in this paragraph, and shall obtain the Board's approval of the program before he embarks upon it. The program design shall specify which portions of the program will be completed by lecture, which portions will be completed by supervised clinical practice, and which portions will be completed by participation in non-clinical technical educational opportunities.

2. Dr. Stoeckl shall obtain the Board's pre-approval of each educational opportunity he wishes to count towards proof of attained competence in orthodontics. Dr. Stoeckl is responsible for getting the information about each educational opportunity he wants

the Board to approve to the Department Monitor, P.O. Box 8935, Madison, Wisconsin, 53708, no later than 30 days before the Board's regularly scheduled meeting.

3. For each educational opportunity Dr. Stoeckl asks the Board to approve, Dr. Stoeckl will state the aspect of orthodontic practice he intends the educational opportunity to address, and he shall further state the degree to which he intends the educational opportunity to fully complete his remediation in that aspect of orthodontic practice. The Board shall not be bound to accept Dr. Stoeckl's estimation of the degree to which successful completion of any one educational opportunity demonstrates minimal competency in any aspect of orthodontic practice.

4. The Board shall not unreasonably withhold approval of any educational opportunity nominated by Dr. Stoeckl; however, the Board will not approve any educational opportunity unless it is recognized by the American Dental Association Continuing Education Recognition Program or is sponsored or provided by an institution accredited by the Council on Dental Education of the American Dental Association.

a. Further, the Board may reject in whole or in part any educational opportunity which is nominated by Dr. Stoeckl when, in the Board's judgment, the syllabus or description of the course or other educational opportunity is insufficient to fulfill the purpose for which Dr. Stoeckl nominates it by reason of the educational opportunity's scope, content, method of instruction, or degree of participation required of students. If the Board approves an educational opportunity in fulfillment of less than the entire purpose for which Dr. Stoeckl nominates it, Dr. Stoeckl may either accept the Board's limited approval, or forego the opportunity entirely.

2.a. PERIODONTICS No later than January 6, 1999, Dr. Stoeckl shall design and complete a program of remediation education to achieve competence in selecting periodontic cases within the treatment capabilities of a general dentist, including periodontic diagnosis, periodontic treatment planning, record keeping, execution of periodontic treatment, principles of delegation of periodontic treatment, and evaluation and treatment of complications in periodontics. Dr. Stoeckl shall obtain the Board's approval of the program before he embarks upon it. The program design shall specify which portions of the program will be completed by lecture, which portions will be completed by supervised clinical practice, and which portions will be completed by participation in non-clinical technical educational opportunities. Dr. Stoeckl shall demonstrate

b. Dr. Stoeckl shall obtain the Board's pre-approval of each educational opportunity he wishes to count towards proof of attained competence in periodontics. Dr. Stoeckl is responsible for getting the information about each educational opportunity he wants the Board to approve to the Department Monitor, P.O. Box 8935, Madison, Wisconsin, 53708, no later than 30 days before the Board's regularly scheduled meeting.

c. For each educational opportunity Dr. Stoeckl asks the Board to approve, Dr. Stoeckl will state the aspect of periodontic practice he intends the educational opportunity to address, and he shall further state the degree to which he intends the educational opportunity to fully complete his remediation in that aspect of periodontic practice. The Board shall not be bound to accept Dr. Stoeckl's estimation of the degree to which successful completion of any one educational opportunity demonstrates minimal competency in any aspect of periodontic practice.

d. The Board shall not unreasonably withhold approval of any educational opportunity nominated by Dr. Stoeckl; however, the Board will not approve any educational

opportunity unless it is recognized by the American Dental Association Continuing Education Recognition Program or is sponsored or provided by an institution accredited by the Council on Dental Education of the American Dental Association.

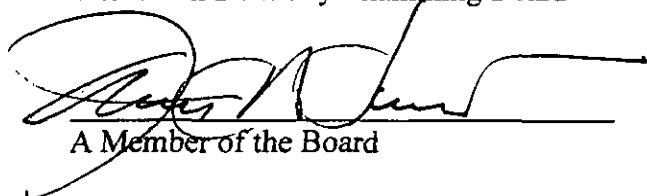
1. Further, the Board may reject in whole or in part any educational opportunity which is nominated by Dr. Stoeckl when, in the Board's judgment, the syllabus or description of the course or other educational opportunity is insufficient to fulfill the purpose for which Dr. Stoeckl nominates it by reason of the educational opportunity's scope, content, method of instruction, or degree of participation required of students. If the Board approves an educational opportunity in fulfillment of less than the entire purpose for which Dr. Stoeckl nominates it, Dr. Stoeckl may either accept the Board's limited approval, or forego the opportunity entirely.

IT IS FURTHER ORDERED that Dr. Stoeckl shall pay the costs of this matter, pursuant to s. 440.22, Stats, in the amount of \$6000.00.

Violation of any part of this Order may be grounds for summary suspension of Dr. Stoeckl's license.

Dated this 8th day of July, 1998.

Wisconsin Dentistry Examining Board



A Member of the Board

State of Wisconsin
Before the Dentistry Examining Board

In the Matter of Disciplinary Proceedings Against

Clemens K. Stoeckl, Jr., D.D.S.,
Respondent
Case No. LS 9709121 DEN

Stipulation

It is hereby stipulated between Clemens K. Stoeckl, Jr., D.D.S., personally and on his own behalf and Paul R. Erickson, Dr. Stoeckl's counsel, and James E. Polewski, Attorney for the Division of Enforcement, Department of Regulation and Licensing, as follows:

1. This stipulation is entered in resolution of the pending matter concerning Dr. Stoeckl's license. The Stipulation and the proposed Final Decision and Order shall be presented directly to the Dentistry Examining Board for its consideration and adoption.
2. In resolution of these proceedings, Dr. Stoeckl consents to the entry of the attached Final Decision and Order.
3. Dr. Stoeckl is aware of and understands each of his rights, including:
 - the right to a hearing on the allegations against him, at which the state would have the burden of proving the allegations by a preponderance of the evidence,
 - the right to confront and cross-examine the witnesses against him.
 - the right to call witnesses on his own behalf and to compel their attendance by subpoena.
 - the right to testify himself,
 - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision,
 - the right to petition for rehearing,
 - the right to be represented at every stage of the proceeding, including the making of any stipulation, by an attorney of his choosing, at his own expense.
 - all other rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
4. Dr. Stoeckl is aware and understands that by signing this stipulation he voluntarily and knowingly waives the rights set forth in paragraph 3 above, and does voluntarily and knowingly waive those rights.
5. If the terms of this stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this stipulation, and the matter shall be returned to the Division of


Enforcement for further proceedings. In the event that this stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Dentistry Examining Board assigned as an advisor in this investigation may appear before the Board for the purpose of speaking in favor of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

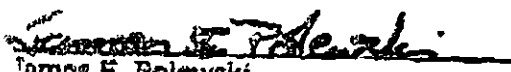
7. Respondent is informed that should the Board adopt this stipulation, the Board's final decision and order is a public record and will be published in the monthly *Report of Decisions* issued by the department. A summary of the order will be published in the *Wisconsin Regulatory Digest* issued semiannually by the Board. A press release will be prepared and distributed to all press boxes in the State Capitol building, to the press in the community where respondent resides and practices, and to individuals and organizations included on a mailing list maintained by the department. Respondent agrees to deliver respondent's credentials to the Board immediately upon receipt of the Final Decision and Order resulting from this Stipulation. Respondent will then be provided with the standard credential issued by the department to those practicing under limitations. Respondent is informed that the Board is required to file an Adverse Action Report with the National Practitioner Data Bank within 30 days following the date of its Final Decision Order. This is standard department procedure and in no way specially directed at Respondent.


Clemens K. Stoeckl, Jr., D.D.S.

6/24/98
Date


Paul R. Erickson
Gutglass, Erickson & Bonville, S.C.
Attorney for Dr. Stoeckl

6/24/98
Date


James E. Polewski
Attorney
Division of Enforcement

June 23 1998
Date

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935
(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On July 8, 1998, the Dentistry Examining Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$6000.00 Case #: LS9807083DEN

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$6000.00

The costs and/or forfeitures are due: August 7, 1998

NAME: Clemens K. Stoeckl, D.D.S. LICENSE NUMBER: 1195

STREET ADDRESS: 8634 West Brown Deer Road

CITY: Milwaukee STATE: WI ZIP CODE: 53224

Check whether the payment is for costs or for a forfeiture or both:

X COSTS _____ FORFEITURE

Check whether the payment is for an individual license or an establishment license:

X INDIVIDUAL _____ ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE DENTISTRY EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Clemens K. Stoeckl, Jr., DDS,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On July 10, 1998, I served the Final Decision and Order dated July 8, 1998, and Guidelines for Payment of Costs and/or Forfeitures, LS9807083DEN, upon the Respondent Clemens K. Stoeckl's attorney by enclosing true and accurate copies of the above-described documents in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is Z 233 819 542.

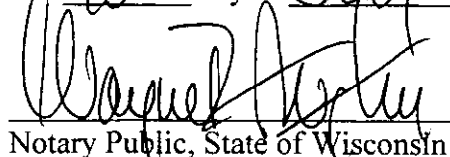
Paul R. Erickson, Attorney
735 N. Water Street, Suite 1400
Milwaukee WI 53202-4267



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 10th day of July, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: PAUL R. ERICKSON, ATTY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 7/10/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935